

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

KEVIN LEE GREGORY, #09170-087,

Petitioner,

v.

ACTION NO. 2:23cv447

ROY CHEATAM, Warden, and
COMMONWEALTH OF VIRGINIA,

Respondents.

FINAL ORDER

Petitioner Kevin Lee Gregory (“Gregory”), a federal inmate housed in the United States Penitentiary Coleman II, in Coleman, Florida, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging a detainer lodged by the Circuit Court for Stafford County. ECF No. 1. This matter was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for a report and recommendation.

The report and recommendation, filed January 17, 2025, recommends that the Commonwealth of Virginia’s motion to dismiss, ECF No. 19, be granted and the petition for a writ of habeas corpus, ECF No. 1, be denied and dismissed without prejudice. On February 10, 2025, Gregory filed objections to the report and recommendation. ECF No. 48.

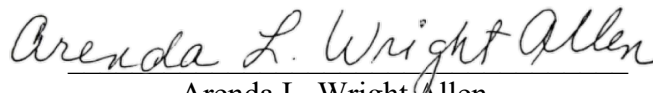
The Court, having reviewed the record and examined the objections filed by Gregory to the report and recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that the Commonwealth of

Virginia's motion to dismiss, ECF No. 19, is **GRANTED** and Gregory's petition for a writ of habeas corpus, ECF No. 1, is **DENIED** and **DISMISSED WITHOUT PREJUDICE**.

Gregory has failed to demonstrate a "substantial showing of the denial of a constitutional right," and, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003).

Gregory is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Gregory intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this final order. Gregory may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk shall mail a copy of this final order to Gregory and counsel of record for respondent.


Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
March 31, 2025